

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKDwayne Parker-EI

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

Detective Wilbert MoralesDetective Morales-BellRobert T. Johnson District Attorney Bronx CountyDanielle Pascale Assistant District AttorneyBronx CountySeanan Reidy Assistant District AttorneyBronx CountyAlexandra Militano Assistant District AttorneyBronx County

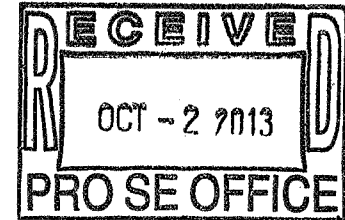
(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

COMPLAINT

under the

Civil Rights Act, 42 U.S.C. § 1983

(Prisoner Complaint)

Jury Trial: ☒ Yes ☐ No
(check one)

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name

Dwayne Parker-EI

ID #

Current Institution

Address

CP [Redacted] (Mailing)

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1

Name

Wilbert Morales

Shield #

Where Currently Employed

44th Police Precinct Bronx County

Address

Defendant No. 2 Name Morales-Bell Shield # _____
 Where Currently Employed 46th Police Precinct Bronx County
 Address _____

Defendant No. 3 Name Robert T. Johnson Shield # _____
 Where Currently Employed District Attorney Bronx County
 Address _____

Defendant No. 4 Name Danielle Pascale Shield # _____
 Where Currently Employed District Attorney's Office Bronx County
 Address _____

Defendant No. 5 Name Seanah Reidy Shield # _____
 Where Currently Employed District Attorney's Office Bronx County
 Address _____

II. Statement of Claim:

Alexandra Militano
District Attorney's Office Bronx County

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur?

B. Where in the institution did the events giving rise to your claim(s) occur?

C. What date and approximate time did the events giving rise to your claim(s) occur?

October 3, 2010 at approximately 10:30 a.m. the initial event
giving rise to my several claims arose.

Though wanted posters were posted in various places at the site of the incident which was just up the block from where the plaintiff lived, and had lived in very close proximity to, the police, for over 3 months did not receive a solid tip that the plaintiff was the perpetrator in that incident.

And though the complainant had a clear look at the perpetrator, she described him as being 6 feet tall when the plaintiff is 5 feet 4 inches tall. ^{to the police} The police conducted a line-up in which all the participants were sitting and not standing next to one another, which had they been, the disparities in height would have been clearly apparent, the complainant is said to have picked the plaintiff out of the line-up which did not include the person the police got the initial tip about or any of the other people they likely received a tip about.

After the plaintiff had been in the custody of the sheriff for 10 months, a second complaint was filed naming him as the defendant even though the complainant was unable to identify the plaintiff. The police and prosecutors claimed that they were unable to identify this complainant until August of 2011 which is why they hadn't filed process with the court, yet police records show that they had spoken with the complainant in early October of 2010 (October 6, 2010). (The plaintiff had for

18 months been unable to make the \$5,000 bail or the \$1,400 bond that had been set).

Plaintiff wishes to have this complaint amended to include the details for each cause of action which includes but is not limited to: Malicious Prosecution, violation of his due process rights, prosecutorial Misconduct, cruel and unusual punishment, conspiracy, denial of a fair trial

D. Facts: ^{seized} On October 3, 2010, plaintiff was arrested in home when two detectives made a warrantless, non-consensual entry where there were no exigent circumstances, and charged with the misdemeanors of Forcible Touching, Second degree sexual abuse, endangering the welfare of a child and public lewdness, for an incident alleged to have occurred on June 17, 2010.

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

On approximately June 23, 2010 the police took the video of the incident to 1 Police Plaza to get media exposure for the incident, ~~for the~~ Shortly thereafter, the police received at least one tip regarding the identity of the individual on the video or in the pictures taken therefrom. The individual identified in this one particular tip (there were likely numerous tips about the identity of said individual that the police did not bother to follow-up on or investigate, plaintiff ~~or~~ chose not to turn over to the District Attorney's office or the eventual defendant) was not the plaintiff in this action. The police, prior to arresting the plaintiff, on a single occasion, briefly canvassed one of two locations that they were informed of by the person that gave them the tip, and that was the extent of their inquiry into that person identified as "Luisito". They failed to make any further inquiry into that or any other individual/s identified as the potential perpetrator when a reasonable person would have done so. This information was not turned over to the plaintiff until nearly 3 years after his arrest. (See attached)

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. Severe depression, post-traumatic stress disorder, high anxiety, death of my father while detained

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒

No ☒

claims not based on what the jail did.

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

n/a

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ____ No ____ Do Not Know ____ n/a

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ____ No ____ Do Not Know ____ n/a

If YES, which claim(s)? _____

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ____ No ____ n/a

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ____ No ____

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

1. Which claim(s) in this complaint did you grieve? _____

2. What was the result, if any? _____

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. _____

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: _____

2. If you did not file a grievance but informed any officials of your claim, state who you informed, _____

when and how, and their response, if any: _____

n/a

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. _____

n/a

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. **Relief:**

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). _____

Stay this matter until the state court action is over

award compensatory damages amounting to \$22,000
award punitive damages amounting to \$27,000,000

VI. **Previous lawsuits:**

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes _____ No ☒

On
these
claims

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes ____ No ☒ ____

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 2 day of October, 2013

Signature of Plaintiff

Durayee R. Smith - E

Inmate Number

~~Institution~~ Address

[REDACTED]

(mailing)

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this _____ day of _____, 20__, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff: _____